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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

T.T.,

Petitioner,

v.

THE SUPERIOR COURT OF FRESNO
COUNTY,

Respondent;

FRESNO COUNTY DEPARTMENT OF
SOCIAL SERVICES,

Real Party in Interest.

F078427

(Super. Ct. No. 07CEJ300157-4)

OPINION

THE COURT*

ORIGINAL PROCEEDINGS; petition for extraordinary writ review. Gary Green,
Commissioner.

T.T., in pro. per., for Petitioner.

No appearance for Respondent.

Daniel C. Cederborg, County Counsel, and Kevin A. Stimmel, Deputy County
Counsel, for Real Party in Interest.

* Before Franson, Acting P.J., Peña, J. and DeSantos, J.

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T.T. (mother) is the mother of now five-year-old M.P., the subject of this writ petition. On November 13, 2018, the juvenile court terminated reunification services for Phillip P., M.P.'s father,¹ at an 18-month review hearing (Welf. & Inst. Code, § 366.22, subd. (a)(1))² and set a section 366.26 hearing for February 26, 2019, to implement a permanent plan. The previous July, the court terminated mother's reunification services at a combined six- and 12-month review hearing, which she appealed.³ Mother filed an extraordinary writ petition from the juvenile court's setting order asserting the "inaccuracy of actual court record" as grounds for error. We dismiss the petition, concluding it fails to comply with the content requirements of California Rules of Court, rule 8.452.⁴

PROCEDURAL AND FACTUAL BACKGROUND

On March 28, 2017, M.P.'s babysitter contacted law enforcement to report possible physical abuse. Then three-year-old M.P. had a black eye, scratches all over her back and stomach, a bruise on her forehead and a bald spot behind her ear and behind her head at the nape of her neck as if someone pulled her hair out. Phillip had sole legal and physical custody of M.P. and there was concern because his live-in girlfriend allegedly had a history of child endangerment and expressed strong dislike for M.P. The babysitter's mother said it was not the first time M.P. had bruises but it was worse this time. The police officer placed a protective hold on M.P. and notified the Fresno County Department of Social Services (department).

¹ Phillip is not a party to these writ proceedings.

² Statutory references are to the Welfare and Institutions Code.

³ We affirmed the juvenile court's ruling (*In re M.P.* (Jan. 30, 2019, F077790) [nonpub. opn.]) and take judicial notice of the record in that case.

⁴ Rule references are to the California Rules of Court.

Mother had supervised visitation with M.P., which she had not exercised since July 2016, and a five-month-old daughter, A.T., in her custody. She also had a prior dependency case, an ongoing custody dispute and a history of domestic violence and substance abuse. In 2007, M.P.'s three older siblings were removed from mother after she tried to hit their father with her automobile.⁵ She was provided services and completed a domestic violence course in April 2008. In September 2008, the juvenile court terminated services and placed the children in a legal guardianship. Mother briefly reunited with the children but in February 2012, their father was awarded custody. The family court ordered mother to visit the children in a therapeutic setting and found mother was using controlled substances. Mother continued her efforts to regain custody of the children. In August 2013, mother was convicted of a misdemeanor charge of willful cruelty to a child. In November 2013, mother gave birth to M.P. and in August 2014 and September 2015, she was arrested for domestic violence. In February 2016, the family court awarded Phillip sole legal and physical custody of M.P. According to Phillip, mother used methamphetamine while pregnant with M.P. and mistreated her. In October 2016, mother tested positive for marijuana at the time of A.T.'s birth and for methamphetamine twice the month before.

The emergency response social worker attempted unsuccessfully to reach Phillip by telephone on March 28, 2017, but was able to reach mother. Mother was upset and angry with the department for not acting on her reports the year before that M.P. was being physically abused. Mother denied any history of mental illness or substance abuse and said there was domestic violence in her relationship with Phillip and that he was the aggressor. The following day, the social worker met with mother at her home and noted the house was clean, the kitchen was stocked with food and A.T. showed no signs of abuse or neglect. Mother asked if she could have custody of M.P. She did not believe

⁵ Mother also had a sixth minor child who was in his father's custody.

she needed reunification services, claiming she had no history of drug use and already completed parenting classes and a domestic violence program. The social worker told her M.P. could not be placed in her care at that time because Phillip had court-ordered custody.

Phillip denied anyone physically abused M.P. He attributed her black eye to her fitful sleeping and the metal-framed bed she slept in at his girlfriend's house. He believed she slid down the bed and hit her face on a metal piece that was protruding. As for the scratches, he believed she was injured while playing with his girlfriend's children and the missing hair was caused by mother giving her a permanent before the age of two.

On March 30, 2017, social workers met with the parents and explained the department could not return M.P. to Phillip because there were too many unanswered questions about her injuries or to mother because Phillip had sole custody. Mother told the social workers she would not participate in services because she was the non-offending parent and she jumped through all the "hoops" for the department, referring to the previous dependency case. She also refused to drug test for the same reason.

The department placed M.P. in foster care and filed a dependency petition, alleging she suffered serious physical harm and severe physical abuse under section 300, subdivisions (a) and (e), respectively, while in Phillip's care.

In April 2017, the juvenile court detained M.P. and ordered the department to offer the parents parenting classes and a mental health evaluation and any recommended treatment. A social worker met with mother and gave her a letter instructing her how to arrange visitation and advising her that someone from the department would contact her regarding a parenting class and mental health assessment.

In June 2017, following a contested jurisdictional hearing, the juvenile court sustained a first amended petition filed in open court and adjudged M.P. a dependent child under section 300, subdivision (b)(1) (failure to protect). Mother's attorney filed a trial brief, asking the court to place M.P. with mother.

The department recommended the juvenile court deny mother's request for placement and initially recommended it deny both parents reunification services at the dispositional hearing. The department reported that mother refused its offers for services, insisting she did not need them. In addition, she was aggressive with care providers and, at times, her behavior was unusual and her speech was slurred. She threatened a supervisor at the department and had someone impersonate her at the drug testing facility. In August 2017, her therapeutic supervised visits were terminated because of her disruptive behavior and refusal to listen to the therapist. Phillip, on the other hand, was cooperative. Consequently, the department filed an amended report and recommended the court order services for him. The department attached a case plan that identified the service objectives and requirements for Phillip only.

The department included in its dispositional report an incident in August 2017, in which M.P. sustained a bruise near her eye. The foster mother reported it to the social worker who investigated. M.P. stated she fell from a bike and the visitation therapist did not suspect abuse. However, mother believed a foster boy in the home hit M.P. and yelled at him, telling him to leave her daughter alone. She also told M.P., "someone hit you," prompting the therapist to intervene. Mother also believed the department was trying to cover up the abuse and contacted a detective with the police department. She provided the foster parents' address, which was confidential, and a description of their home. The foster parents were instructed to contact law enforcement if they saw mother around their home.

The juvenile court conducted the dispositional hearing in November 2017. Mother testified she completed all the services in the last few years that were required of her in 2007 and was successfully parenting a one-year-old child. Her social worker testified the department opposed placing M.P. with her because of her threatening behavior and resistance to services.

The juvenile court denied mother's request for placement, citing her ongoing acts of aggression toward service providers, conviction for child cruelty, arrests for domestic violence and possible drug use. The court removed M.P. from Phillip, ordered reunification services for both parents, and found the Indian Child Welfare Act (ICWA; 25 U.S.C. § 1901 et seq.) did not apply. The court ordered the parents to participate in: parenting classes; domestic violence, substance abuse, and mental health evaluations; and submit to random drug testing. The court ordered reasonable supervised visitation and set a post-disposition mediation for January 2018, and a combined six- and 12-month review hearing for April 2018 (combined hearing).

Social workers met with mother and Phillip in January 2018 for the post-disposition mediation and reviewed their services plans and visitation. By that time, mother had been scheduled for a parenting class, which she did not attend, and the department had mailed a service letter to her informing her she was referred to another parenting class. She was referred multiple times to specified providers for mental health and substance abuse assessments and random drug testing as well as a domestic violence assessment but did not show up. The mediation report detailed the department's efforts to arrange services for mother and her poor progress. The court adopted the mediation results and the parents' agreement to the services at a hearing on January 23, 2018, attended by both parents.

In February 2018, mother attended her first parenting class, arriving an hour and a half late. She was reportedly very defensive and argumentative and informed the staff that she had taken the class three times and did not need it. She stated in a loud voice she was not the offending parent, father was. She continued to attend but was late and disruptive. In April, mother completed a mental health assessment but declined mental health services. The social worker who assessed her believed she could benefit from individual therapy and a psychological evaluation to address her feelings of sadness, hopelessness and irritability but mother did not feel the need.

In its report for the combined hearing, the department recommended the juvenile court terminate mother's reunification services because she was not participating in her court-ordered services or regularly visiting M.P. Her therapeutic supervised visits were terminated a second time in January 2018 because of her disruptive behavior and lack of progress. The servicing agency was willing to resume visitation on the condition she agree to certain stipulations. However, mother would not agree to the stipulations and was angry and threatening with the staff. Phillip, on the other hand, was making moderate progress in his services plan and maintaining a somewhat regular visitation schedule. Consequently, the department recommended the court continue his services to the 18-month review hearing.

Mother challenged the department's recommendation on the grounds she was not provided reasonable reunification services and testified at the combined hearing in July 2018. She correctly identified the components of her case plan but testified she did not receive a written case plan or specific information that would inform her as to how to access services.

The juvenile court concluded mother received reasonable reunification services, finding she was aware of what was required of her and participated in discussions about her services at the post-disposition mediation. The court adopted the department's recommendations and continued Phillip's reunification services to the 18-month review hearing.

Phillip continued to work toward reunification but did not complete his services or regularly visit, although the quality of visits was good. Since the department did not believe M.P. could be safely returned to his custody, it recommended the juvenile court terminate his reunification services.

Phillip opposed the department's recommendation but withdrew his request for a contested hearing at a settlement conference in November 2018. He acknowledged M.P. was doing well in the care of her paternal cousin who he believed would be appointed her

legal guardian at the section 366.26 hearing. Mother was present, and her attorney informed the court mother had a third party who was willing to supervise visitation. She did not want to resume therapeutic supervised visitation at the servicing agency. The court advised mother to contact the social worker, terminated Phillip's reunification services and set the section 366.26 hearing.

DISCUSSION

As a general proposition, a juvenile court's rulings are presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) Thus, absent a showing of error, this court will not disturb them.

A parent seeking review of the juvenile court's orders from the setting hearing must, as mother did here, file an extraordinary writ petition in this court on Judicial Council form JV-825 to initiate writ proceedings. The purpose of writ proceedings is to allow this court to review the juvenile court's orders to identify any errors before the section 366.26 hearing occurs.

Rule 8.452 requires the petitioner to identify the error(s) he or she believes the juvenile court made. It also requires the petitioner to summarize the significant facts supporting the petition, relate the facts to the grounds alleged as error, and support each point with argument and citation to authority and the record. (Rule 8.452(a), (b); *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 583.) A petition that fails to comply with these requirements may be dismissed. (*Cheryl S. v. Superior Court* (1996) 51 Cal.App.4th 1000, 1005.)

Mother's petition does not comply with rule 8.452 for one very critical reason; it does not identify any specific error made by the juvenile court. In item No. 6 on form JV-825, which required her to identify the grounds on which the court erred, mother simply wrote "inaccuracy of actual court record." It appears by her statement she is challenging the evidence in its entirety. Our review, however, is confined to the proceedings which gave rise to the setting of the section 366.26 hearing. In this case,

those proceedings were the 18-month review hearing in November 2018, at which the court terminated Phillip's reunification services. The court did not issue any rulings as to mother. Further, we do not independently review the evidence to identify error. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Consequently, on its face the petition does not identify an error subject to our review.

Additionally, mother does not elsewhere in the petition make any statements this court could construe as a claim of error. (Rule 8.452(a)(1).)⁶ For example, in item No. 8 of the petition where it required mother to provide a factual basis for the petition, she appears to challenge the department's decision not to place M.P. with her after M.P.'s initial removal in March 2017. However, she did not develop the argument by supporting it with citations to the record and legal authority and, even if she did, we could not review it. The placement decision was made long ago and was not raised at the setting hearing in November 2018. Consequently, we cannot review it. Mother also attached a letter to her petition, in which she appears to criticize the department's handling of the physical abuse allegations she lodged against the foster parents. She also questions why M.P. is not in her care when there have been no allegations she physically abused her children, and why the department did not address her visitation with M.P. in its reports. The only issue that is potentially arguable is visitation because mother's attorney raised it at the setting hearing. She informed the court mother wanted the department to develop a new visitation plan for her and a sibling visitation plan. She also wanted the court to know that she knew someone willing to provide third party supervised visitation. However, the court did not change her visitation order, instead, directing mother to discuss it with her social worker. Consequently, there is no issue as to visitation that could be construed as

⁶ In keeping with rule 8.452(a)(1), we will liberally construe writ petitions in favor of their adequacy where possible, recognizing that a parent representing him- or herself is not trained in the law.

error. As to custody, mother did not raise it and the department investigated mother's concerns about physical abuse and did not find any evidence of it.

We conclude the petition fails to raise a claim of juvenile court error as required by rule 8.452 and dismiss it as facially inadequate for review.

DISPOSITION

The petition for extraordinary writ is dismissed. This opinion is final forthwith as to this court.